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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/811,038 | 03/16/2001 | Aline Fichou | FR919990055US1 | 5687 |

42640 7590 03/31/2006

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| EXAMINER |
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BLAIR, DOUGLAS B

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| ART UNIT | PAPER NUMBER |
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2142

DATE MAILED: 03/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/811,038

Applicant(s)

FICHO ET AL.

Examiner

Douglas B. Blair

Art Unit

2142

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 8-14 and 16-22.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449, Paper No(s) _____)
13. ☐ Other: _____.


**BUNJOB JAROENCHONWANIT
SUPERVISORY PATENT EXAMINER**

Continuation of 11. does NOT place the application in condition for allowance because: The applicant's arguments are completely unconvincing. The applicant chooses to argue that Kalmanek does not teach the claim language while presenting no elaboration on how the claim language relates to the applicant's invention. Clearly, the Examiner feels that Kalmanek teaches the claim language, otherwise the rejection would not have been set forth, so merely arguing that Kalmanek does not teach the claim language is futile and does nothing to advance prosecution. The applicant's main argument against Kalmanek is that a "call" cannot be a "virtual connection" but the applicant's argument provides no rationale as to why. In Kalmanek, the call is obviously a connection and since the call is setup by reserving resources of a network without establishing a permanent connection, the call is a virtual connection. If the applicant has some specific meaning for "virtual connection" it should be claimed and at minimum argued. Generally, the applicant is claiming a method for reserving a virtual connection from a source workstation to a destination workstation within a network to allow data packets to be transmitted between an ingress node and an egress node. The first limitation of claim 8 features the source workstation sending a reservation request to a reservation server that has a means for setting up a virtual connection that meets a predefined quality of service. All virtual connections require a setup request and meet some level of predefined QoS so this limitation is not believed to be patentable. The second limitation of the claim calls for determining whether or not the reservation request can be validated based on user information within the source workstation that is accessible to by the reservation server. This user information can only be interpreted as the previously mentioned reservation request, otherwise the claim would fail to comply with U.S.C. 112 2nd paragraph for omitting essential method steps as it would be unclear how the reservation server could be aware of information on the source workstation, so the second limitation does little if anything to further limit the claim. The third limitation calls for determining if there is capacity to meet the request after the request is validated. Any QoS system would determine the capacity of the network and the validation step could be interpreted as anything according to the claim language. Finally the forth limitaion of claim 8 states that the virtual connection is established if the capacity of the network is sufficient to meet the request. Again, any system providing quality of service gaurantees would make sure that it could meet a request before issuing a service. As pointed out, the claim language is broad enough to read on any virtual connection which adheres to any QoS requirements so it is unclear how any of these limitations are patentable .